

CHAPTER VIII – PARTICIPANT RIGHTS

8.01 Medicaid Waiver Applicant/Participant Rights

Persons applying for the Medicaid waiver programs and persons participating in those programs have specific rights. These rights are enumerated in federal and state statutes. Waiver applicants and participants also have specific responsibilities they must fulfill as a condition of participation in the Medicaid waivers. It is recommended that every waiver program applicant and participant be given information regarding Medicaid recipient rights. Click [here](#) to access recipient rights information.

The Medicaid waiver programs are a part of a long-term support model in Wisconsin, which includes federal Medicaid, funded and state funded programs and services. Because of this combination of funding sources, it is important to provide applicants/participants with notification of a broader range of rights and responsibilities than those prescribed by Medicaid. A description of the rights and responsibilities of persons who apply for or receive Medicaid waiver services is contained in the Model Rights and Responsibilities Notification, found in [Appendix M-1](#) of this manual.

8.02 Responsibility for the Notification of Rights

It is the responsibility of the waiver agency to inform all Medicaid waiver applicants and participants of their rights verbally and in writing. Agencies are required to inform applicants/ participants of their rights at the time of the application and annually thereafter. The explanation must be provided to all applicants/participants or their guardian in a manner he/she can understand. For some persons this may mean the notice will need to be translated verbally or in writing to Spanish, Hmong, Russian, or another language. Or, the notice may need to be provided in Braille to the visually impaired or signed to someone who is deaf/hearing impaired. The waiver agency is responsible for providing translators or translated text notification. The Bureau of Long Term Support may be contacted for assistance to obtain translated copies of the written notification.

8.03 Extent of Notification

Medicaid waiver applicants and participants or their guardian must be fully informed of the county grievance and the state appeals processes, including whom to contact and the time limits for appeals. Information provided must include the name and address of the Wisconsin Department of Administration, Division of Hearings and Appeals. The notice must also inform the person of their right to contact the Board on Aging and Long Term Care, Ombudsman Program and the Disability Rights Wisconsin (formerly known as Wisconsin Coalition for Advocacy), and include the agency addresses and toll free telephone numbers.

The rights and responsibilities notification provided by the county agency must include, at a minimum, the rights and responsibilities listed on the Model Rights Notification located in [Appendix M-1](#) of this manual.

8.04 Notice of Decision to Provide an Assessment or Service Plan

Except in an emergency, the waiver agency must notify the applicant within thirty (30) calendar days from the date of application of the approval of an assessment and when the assessment will be conducted. An applicant who is approved for an assessment has the right to have that assessment conducted within forty-five (45) calendar days of application. In an emergency situation the applicant must receive a direct contact (by telephone or face to face) within 72 hours of the application or referral and an assessment must be conducted within ten (10) days of any nursing home admission. Appendix F of the Community Options Guidelines contains the definition of an emergency.

The agency must notify the applicant within thirty (30) calendar days if the assessment is denied. The notice of denial must include the reason for the denial, and the procedure to follow to appeal the decision as well as who to contact to initiate the appeal and whom they may contact for assistance in the appeal process.

Upon completion of the assessment the agency must notify the applicant within thirty (30) calendar days of the decision to approve or deny the development of a service plan. If the applicant is denied, the notice must contain information describing the applicant's appeal and grievance rights and a listing of whom to contact to initiate the appeal and whom they may contact for assistance with the appeal process.

8.05 Notice of Reduction or Termination

The agency may not reduce or terminate services to a Medicaid waiver participant without providing the participant with prior written notice (DDE-2638). Refer to DDES Action Memo (2005-18) for guidance and for information which became effective 1/1/06. The memo is located at:
http://dhfs.wisconsin.gov/dsl_info/NumberedMemos/DDES/CY_2005/NMemo2005-18.htm

The notification shall cite Chapter 227 of Wis. Statutes and be given at least ten (10) days in advance of any reduction or termination of services. The participant must be informed that s/he has the right to appeal the agency decision and if the appeal is filed within the ten (10) day notice period the services may not be reduced or terminated until the appeal is heard. The participant must also be informed that s/he has forty-five (45) days to appeal the agency decision and that appeals received after 45 days may not be heard.

The notice must inform the participant that if s/he requests a hearing regarding a reduction or termination of services action certain Medicaid rules apply. If the affected services continue pending the hearing decision, and the hearing decision upholds the action to reduce or terminate services, s/he may be required to reimburse the Department for the cost of any affected services.

This recoupment possibility applies to services s/he received during the time period beginning on the original effective date of the notice up to and including the date of the hearing decision.

The notification shall contain the address and telephone number of the Division of Hearings and Appeals as well as the addresses and telephone numbers of agencies to contact who will assist the participant in the appeal. If requested, the agency care manager must assist the participant to file his/her appeal and to contact appropriate advocacy agencies.

8.06 Additional Rights Provisions

Waiver agency staff should be aware of additional rights and protections which may apply. Please see the following department resource: <http://dhfs.wisconsin.gov/clientrights>